

Rights of the Taxpayer

Louisiana Department of Revenue



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Introduction

The mission of the Louisiana Department of Revenue is to administer applicable laws and collect revenues to fund state services. This statement includes the Department's responsibility for ensuring compliance with the state's tax laws, and the responsibility to provide taxpayers with a reasonable opportunity to disagree with a tax assessment and to satisfactorily resolve that disagreement.

This pamphlet has been prepared to inform Louisiana taxpayers of their legal rights when audited by the Department of Revenue. Explained in this brochure are the procedures followed by the Department when a tax return is filed, selected for audit, and examined. The audit procedures followed by the Department are the same for all taxes, for individuals and businesses alike. An examination is intended to verify the correctness of past filing periods. It does not relieve a taxpayer of past, present, or future obligations to file tax returns and pay taxes as required by law.

By having a thorough knowledge of the steps taken in processing and reviewing returns, taxpayers will better understand inquiries and notices from the Department.

Taxpayer's Bill of Rights

Louisiana Revised Statute 47:15 assures state taxpayers of the following:

1. The right to be treated fairly, courteously, and with respect.
2. The right to have all tax forms, instructions, and information written in plain English.
3. The right to prompt and accurate answers to their questions in accordance with Department of Revenue Policy and Procedure Memorandum Administrative No. 10.14.
4. The right to ask for and receive assistance in complying with the tax laws, rules, and regulations of Louisiana.
5. The right to strict confidentiality of their tax records in accordance with R.S. 47:1508.
6. The right to review and receive a copy of their tax records in accordance with R.S. 47:1508(B)(1) and R.S. 44:31 et seq.
7. The right to be free from harassment in audits and collection activities.
8. The right to be served by employees who are not paid or promoted based on the amount of tax dollars billed or collected.
9. The right to receive a refund, in some cases with interest, for any taxes overpaid so long as the refund claim is timely filed in accordance with Article VII, Section 16 of the Constitution of Louisiana and the laws of the state, including R.S. 47:1621(A); R.S. 47:1623; R.S. 47:2451; and R.S. 47:1580.
10. The right to be notified before their records are audited and to receive information about the estimated time, scope, and extent of the audit, unless the Department of Revenue determines that the taxpayer is likely to remove the assets from the jurisdiction of the state.

11. The right to request a meeting with the auditor to discuss the auditor's proposed assessment of tax due if they do not agree with the auditor's findings in accordance with R.S. 47:1563.
12. The right to request that any assessment of taxes due, including penalty and interest, be reviewed at the management level of the Department of Revenue in accordance with R.S. 47:1563.
13. The right to represent themselves or to authorize another person to represent or accompany them when dealing with the Department of Revenue.
14. The right to a hearing in order to dispute an assessment of taxes, interest, and penalties by timely filing an appeal with the Board of Tax Appeals in accordance with R.S. 47:1414, 1431, and 1481. A taxpayer shall not be required to pay the disputed tax, interest, and penalties in order to exercise this right.
15. The right to a formal hearing in order to contest the assessment of taxes, interest, and penalties by timely filing suit with the appropriate state district court. The assessment must be paid in full under protest in order to exercise this right in accordance with R.S. 47:1576.
16. The right to ask the Department of Revenue to consider an installment payment agreement for taxes, interest, and penalties due. If a taxpayer qualifies for an installment agreement, no further collection action will be taken as long as the taxpayer complies with the installment payment agreement.
17. The right to a prompt release of a lien upon payment of all taxes, penalties, interest, and filing fees due in accordance with R.S. 47:1578.
18. The right to have all other collection methods exhausted before the taxpayer's assets are seized, unless the Department of Revenue determines that the taxpayer is likely to remove the assets from the jurisdiction of the state.

19. The right to have a public hearing on all proposed Department of Revenue administrative regulations adopted under the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.
20. The right to complain and be heard.

Authority to examine records

Louisiana Revised Statute 47:1542 authorizes the Secretary of Revenue, or any authorized assistant, to examine or investigate the place of business and any records of a taxpayer to determine the correct tax liability. The auditor and his supervisors are authorized assistants to the Secretary of Revenue. Any information provided by a taxpayer is strictly confidential (R.S. 47:1508). Public disclosure of such information would subject the Department and the auditor to civil proceedings, fines, and/or jail terms.

Rights of a taxpayer under examination

- Fair and courteous treatment
- Strict confidentiality of tax records within the provisions of the law
- Reasonably convenient examination of the return or records
- To retain legal or accounting representation when the return or records are examined
- Knowledge of the reasons for any proposed change to the tax liability and a detailed explanation of anything not understood
- Written notice detailing any adjustments made to the tax return and a statement of any balance due or additional refund developed

Retention of records by taxpayers

Louisiana Revised Statute 47:1542.1 requires that any document or record necessary to support any tax administered by the Department be maintained by the taxpayer until the tax prescribes. These records should clearly support any and all items claimed on the return.

There are other provisions within the tax laws that impose fines or imprisonment for failure to keep proper records. The auditor or the supervisor will be glad to answer any questions a taxpayer may have about these requirements.



The tax audit process

Step 1 – Pre-Audit

As tax returns are received at the Department, they are sorted, dated, assigned a control number, and sent to a pre-audit unit. This unit performs a preliminary check of a return to see if it is free of obvious math errors, has been properly completed, and contains all necessary information. If the return passes the pre-audit procedure, the information is entered and stored in the computer. If the preliminary check uncovers an error on the return or the omission of essential information, a letter requesting the information, a billing notice for additional taxes plus interest, or a refund check will be sent to the taxpayer.

Step 2 – Audit

A tax return may later be selected for audit. An audit may be a thorough review of items claimed on the return. It may also be an on-site reconciliation of the business's books and records with the return. A Department auditor may completely review the return and determine the correct tax liability. The auditor's calculations may be the same as those on the return. If not, the taxpayer may receive either a refund or a bill for additional tax plus interest.

Step 3 – Notice of proposed assessment (30-day letter)

If the auditor determines that more tax is due, a notice of proposed assessment (30-day letter) will be mailed to the taxpayer. The 30-day letter notifies the taxpayer that the Department plans to assess additional tax, plus any accrued interest and penalties. The taxpayer is allowed 30 days from the date of the proposed assessment to: (1) pay the additional tax, interest, and applicable penalties; (2) protest the tax deficiency; or (3) request an extension of time to reply to the proposed assessment.

If a protest of the tax deficiency is made, the Department will review each adjustment protested to establish the most appropriate course of action for handling the protested issues. Further correspondence may be requested, an informal conference may be scheduled, or a reexamination of the return may be appropriate for resolving disputed audit adjustments.

Step 4 – Formal assessment (60-day letter)

If the taxpayer fails to protest the proposed notice of assessment within the time prescribed, or if the Department and the taxpayer cannot agree on the correctness of the additional tax determined to be due, the Department may issue a formal assessment (60-day letter). A formal assessment requires the taxpayer to make any further appeal to the Board of Tax Appeals within 60 days of the formal assessment date. However, the taxpayer may choose to pay the formal assessment under protest and file suit within 30 days for recovery of the payment. The Department may choose not to issue a formal assessment and may instead file suit, bypassing the Board of Tax Appeals.

Step 5 – Board of Tax Appeals

The Board of Tax Appeals is a formal, legal body, independent of the Department of Revenue, authorized to decide tax issues between the Department and taxpayers. Rulings of the Board of Tax Appeals may be appealed by either party to the appropriate Louisiana District Court.

How a return is selected for audit

The Department employs many methods for selecting returns for audit. A return may be selected at random or because of some unusual item reported. A return may also be chosen for audit as a result of discrepancies discovered through computer comparisons of state and federal returns, or as a result of an examination of the federal return by the Internal Revenue Service. A taxpayer may be selected for audit as a result of an audit of another company with whom a taxpayer conducts business, or by a computer-generated program designed to identify and select taxpayers who may owe substantial amounts of additional taxes.

Audit procedures in general

Once a return is selected for audit, it is assigned to an auditor who will be responsible for performing the examination. The taxpayer will be contacted in advance by telephone, letter, or e-mail and informed of the taxes and the accounting periods to be audited. The records required to conduct the examination are discussed and an audit date is set during this conversation. A letter is sent to confirm the records needed and the date of the audit. The amount of time the auditor will spend at the taxpayer's location to perform the examination will depend on the tax issues involved, the amount of records involved, the size and complexity of the taxpayer's operation, and the level of cooperation and assistance provided the auditor by the taxpayer.

When the auditor arrives at the taxpayer's office, a pre-audit conference is conducted. During the pre-audit conference, the auditor will ask questions about the business activities of the taxpayer, the types of records maintained, and how the tax return is prepared. The answers to these questions will help the auditor understand the nature of the taxpayer's business and the accounting system employed by

the taxpayer. From this information, the auditor will determine the best way to conduct the audit.

The taxpayer is encouraged to ask any questions about the audit procedures to be used.

During the course of the audit, the auditor will inform the taxpayer of problems encountered and areas where taxable issues may be involved. When the initial field work is completed, the auditor will present the taxpayer with a copy of the preliminary audit schedules and explain any adjustments in detail.

Unless the prescriptive period (statute of limitations) does not allow for a review period, the taxpayer will be allowed a reasonable time to review the audit schedules and discuss the findings with the auditor before the audit is submitted to the field audit headquarters office. During this time, the taxpayer will have the opportunity to discuss the findings with the auditor and present additional facts and documentation to substantiate the treatment of items included in the audit. The taxpayer and the auditor will try to resolve all issues at that time. If the taxpayer is in agreement with part or all of the audit findings, the auditor will inform the taxpayer of the Department's refund procedures, or the methods for making payments for taxes owed. If additional taxes are found to be due, the cost of the examination performed may be charged to the taxpayer. All audits are then forwarded to the field audit headquarters office for further review and billing or refunding.

The review process in general

A tax audit specialist will examine the audit report. If the specialist agrees with the auditor's findings and additional taxes are owed, a notice of proposed assessment (30-day letter) will be mailed to the last known address of the taxpayer. This notice will indicate the Department's file number, the accounting

periods audited, and the tax, penalties, and interest due. A telephone number and the specialist's name will be included on this form to allow the taxpayer the opportunity to speak directly with the specialist about the audit.

If the taxpayer disagrees with the audit findings, a written protest may be filed with the Department.

The taxpayer's letter should contain the reasons, with supporting facts and figures, for objecting to the additional tax. The taxpayer may also request an opportunity to meet with the revenue audit reviewer to present his facts or to ask for an extension of time to respond to the proposed assessment.

If a taxpayer has not responded to the notice within 30 days, the Department may send a second notice (formal assessment) by registered or certified mail to the last known address of the taxpayer. This notice is a formal bill, and the taxpayer has 60 days to pay or appeal the formal assessment to the Board of Tax Appeals; otherwise, the assessment becomes legally due and subject to immediate collection. The Department may choose not to issue a formal assessment and may instead file suit, bypassing the Board of Tax Appeals.

Instead of filing an appeal with the Board of Tax Appeals, a taxpayer may pay the bill under protest within 60 days. When payments are made under protest, they are set aside in escrow pending resolution of the issues through litigation. The taxpayer has 30 days to file suit for recovery of the payment. If the taxpayer does file suit, the tax remains in escrow until a decision is rendered on the case. Should the taxpayer win the suit, the payment is returned to the taxpayer with interest accrued from the date the payment was received by the Department until the date of refund. If the taxpayer does not file suit within the 30-day period, the money is removed from escrow and added to the general fund of the State.

When paying taxes under protest, the taxpayer should inform the Department in writing of his intent to file suit within 30 days. Any document sent with a payment under protest should have “payment under protest” boldly printed on it. Checks, money orders, etc., used to pay the tax should also clearly state the taxpayer’s intentions.

If a refund of taxes was indicated by the audit, the reviewer will process the refund and interest due. The taxpayer will receive the refund by mail at the last known address.

Board of Tax Appeals

The Board of Tax Appeals was created to hear and decide, at minimum expense, tax disputes between taxpayers and the Department. It is an independent agency made up of three members appointed by the Governor. The Board is allowed to decide cases involving tax assessments and overpayments, and to excuse the taxpayers from paying some penalties in certain justifiable instances. The Board will notify the taxpayer and the Department of its decision. If either the taxpayer or the Department is not satisfied with the decision, they may appeal it to district court.

The Board is located at: 5615 Corporate Boulevard, Suite 600B, Baton Rouge, LA 70808. The telephone number is (225) 922-0172.



Directory

Baton Rouge (Main Office) - 617 North Third Street,
P.O. Box 201, Baton Rouge, LA 70821-0201

Collection	. . . . .	(225) 219-7448
Field Audit Services	. . . . .	(225) 219-2720
Legal	. . . . .	(225) 219-2080
Office Audit	. . . . .	(225) 219-2270
Tax Forms	. . . . .	(225) 219-2113
Taxpayer Services		
<i>Taxpayer Assistance</i>	. . . . .	(225) 219-2448
<i>Individual Income</i>	. . . . .	(225) 219-0067
<i>Corporation Income</i>	. . . . .	(225) 219-0067
<i>Inheritance/Gift Taxes</i>	. . . . .	(225) 219-0067
<i>Sales Tax</i>	. . . . .	(225) 219-7356
<i>Severance/Excise Taxes</i>	. . . . .	(225) 219-7656
TDD Number	. . . . .	(225) 219-2114

Regional/District Offices

Alexandria

Alexandria Regional Office
Room B-100
900 Murray Street
Alexandria, LA 71301-7643
(318) 487-5333

Shreveport

Shreveport Regional Office
Room 630
1525 Fairfield Avenue
Shreveport, LA 71101-4371
(318) 676-7505

Lafayette

Lafayette Regional Office
Brandywine III, Suite 150
825 Kaliste Saloom Road
Lafayette, LA 70508-4237
(337) 262-5455

Thibodaux

Thibodaux Regional Office
1418 Tiger Drive
Thibodaux, LA 70301-4337
(504) 447-0976

Lake Charles

Lake Charles Regional Office
Suite 1550
One Lakeshore Drive
Lake Charles, LA 70629-0001
(337) 491-2504

Dallas District

Suite 315
4100 Spring Valley Road
Dallas, TX 75244-3800
(972) 701-9682

Monroe

Monroe Regional Office
Room 105
122 St. John Street
Monroe, LA 71201-7374
(318) 362-3151

Houston District

Suite 325
5177 Richmond Avenue
Houston, TX 77056-6704
(713) 629-8335

New Orleans

New Orleans Regional Office
Suite 2100
1555 Poydras Street
New Orleans, LA 70112-3707
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